they will not inquire into the amount or kind of evidence which produced the indictment. *State v. Fasset* (1844) 16 Conn. 457, 471; *State v. Comer* (1902) 157 Ind. 611, 62 N. E. 452. But since the innovation of rules limiting the grand jury in their reception of evidence, it has logically followed that the proceedings may be inquired into with reference to the sufficiency or legality of the evidence. *United States v. Farrington* (1881, N. D. N. Y.) 5 Fed. 343; see 4 Wigmore, *Evidence* (1905) sec. 2364. If the court should find that there was some competent evidence, the mere fact that incompetent evidence was admitted will not be sufficient ground to quash, as a valid indictment may have been found on the competent evidence. *People v. Rice* (1919) 206 Mich. 644, 173 N. W. 495; see 12 R. C. L. 1040. Where, however, the evidence is utterly insufficient, the indictment will be quashed. *United States v. Silverthorne* (1920, W. D. N. Y.) 265 Fed. 853; see 2 Wharton, *Criminal Procedure* (10th ed. 1918) sec. 1291. In the instant case it does not appear that the indictment was founded solely on the hearsay evidence, and so the court correctly decided that the indictment should not be quashed on the first ground. See 47 L. R. A. (N. S.) 1207, note. The argument dealing with the incompetency of witnesses before a grand jury as ground for quashal has resulted in a diversity of authority. See (1916) 16 COL. L. REV. 158; (1915) 28 HARV. L. REV. 326. It has been held that where a witness was not sworn, the indictment should be quashed even if the jurors were not actually influenced. *State v. Wetzel* (1914) 75 W. Va. 7, 83 S. E. 68. And again the court held it to be sufficient ground to quash that a private attorney was present, even if at the request of the county attorney. *Hartgraves v. State* (1911) 5 Okla. Cr. App. 266, 114 Pac. 343. But the logical rule would seem to be the one that is generally followed where there is incompetent evidence, viz., if there were some competent witnesses present, that is sufficient to sustain the indictment, even though incompetent witnesses were also present. *State v. Shreve* (1897) 137 Mo. 1, 38 S. W. 548. In the instant case, not only were incompetent witnesses present, but also an attempt was made by them as a delegation to influence the finding of the grand jury. Here also there is a diversity of opinion, as it has been held that where a witness did not have any actual knowledge of the case but merely came to urge the finding of an indictment, his conduct fell far short of being ground for quashal. *State v. Bacon* (1900) 77 Miss. 366, 27 So. 563. The line must be drawn somewhere, however, and it surely seems unjust to the accused to have witnesses come as a body to urge the finding of an indictment when the facts themselves may warrant such action. Considering also that the chief function of the grand jury is the impartial investigation of all the facts in a particular case, outside influence, especially where it is intended to affect the finding, should be entirely excluded. The instant case, therefore, is apparently sound. See 14 R. C. L. 205. An additional reason for this conclusion is found in the provisions of Minn. Gen. St. 1913, sec. 9180.

PROPERTY—TENANCY IN COMMON—DEED OF ENTIRE ESTATE IN SEVERALTY BY ONE CO-TENANT TO A STRANGER—ADVERSE POSSESSION UNDER SUCH A DEED.—The plaintiffs' and the defendant's grantors respectively owned land as tenants in common. The plaintiffs' grantor executed to them a deed purporting to convey the entire interest in severalty in a specific parcel thereof. The defendant claims under a deed of the other co-tenant's interest. For a longer time than the statutory period the plaintiffs grazed their cattle on the land during the grazing season; but did not prevent the defendant or his grantor from grazing their cattle. Little use was made of the land during the remainder of the year. The plaintiffs brought an action to quiet their title to the parcel in question, claiming title thereto in severalty by adverse possession. *Held*, that the plaintiffs were entitled to the relief sought, since entry under their deed is presumed to have been adverse

and possession thereafter for the statutory period gave them complete title. *O'Banion et al. v. Simpson* (1920, Nev.) 191 Pac. 1083.

Possession by one co-tenant is in law considered to be for the benefit of the other co-tenants. *Miller v. Powers* (1919) 184 Ky. 417, 212 S. W. 453; see *Schleuter v. Reinking* (1919, Iowa) 173 N. W. 18. To rebut this so-called presumption, notice of any adverse claim must be brought home to the other co-tenants, either actually or by notorious and unequivocal acts. *Berger v. Horsfield* (1919) 188 App. Div. 649, 176 N. Y. Supp. 854; *Stiles v. Hawkins* (1918, Tex. Sup. Ct.) 207 S. W. 89. A co-tenant can convey no greater interest than his own, and any deed purporting to convey more is inoperative as against those co-tenants who do not join therein. *Pastine v. Altman* (1919) 93 Conn. 707, 107 Atl. 803; see (1919) 29 YALE LAW JOURNAL, 248; *Le Vee v. Le Vee* (1919) 93 Oregon 370, 382, 183 Pac. 773, 774. Such a deed of itself raises no presumption of an adverse claim, even though it is recorded and the grantee pays all the taxes for the statutory period. *White v. Beckwith* (1892) 62 Conn. 79, 25 Atl. 400; see *Pickens v. Stout* (1910) 67 W. Va. 422, 432, 68 S. E. 354, 359. In North Carolina, despite a seven years statute of limitations, neither a co-tenant nor his grantee can defeat the interests of other co-tenants except by adverse possession for twenty years. *Hicks v. Bullock* (1887) 96 N. C. 164, 1 S. E. 629; *Mott v. Land Co.* (1908) 146 N. C. 525, 60 S. E. 423. This rule seems arbitrary. By the instant case and the great weight of authority, a stranger to whom a co-tenant purports to convey the entire interest in severalty has the power to invest complete title in himself by adverse possession through acts less notorious and unequivocal than would be required by his grantor. *Foulke v. Bond* (1879) 41 N. J. L .527; *Clarke v. Dirks* (1916) 178 Iowa, 335, 160 N. W. 31; see 32 L. R. A. (N. S.) 702, note. It appears more logical, however, as well as just that such a stranger should be compelled to give as unequivocal evidence as a co-tenant of an adverse claim to a greater interest than the co-tenant had. See *Hamershlag v. Duryea* (1899) 38 App. Div. 130, 133, 56 N. Y. Supp. 615, 618.

PROPERTY—WATERS AND WATERCOURSES—EXCLUSIVE RIGHT OF A RIPARIAN OWNER TO HUNT ANIMALS IN NAVIGABLE STREAM.—The plaintiff was the owner of land bordering a navigable stream and claimed ownership of its bed to the middle. The defendant had placed traps at the bottom of the stream for the purpose of catching muskrats and had succeeded in trapping some of considerable value. The plaintiff sought to enjoin this practice. *Held*, that the plaintiff was entitled to the relief sought, and to the exclusive privilege of trapping the aquatic animals in and upon the waters covering the soil submerged to the thread of the stream. *Johnson v. Burghorn* (1920, Mich.) 179 N. W. 225.

The instant case involves two questions. The first relates to the ownership of the soil underlying public or navigable fresh waters; the second to the rights of the owner to hunt aquatic animals in waters covering that soil. The authorities on the first question are in great conflict. Some states, following the common-law rule, hold that the ownership of the beds of non-tidal waters, though navigable in fact, is in the riparian owners. *Fulton v. State* (1911) 200 N. Y. 400, 94 N. E. 199; *Donovan etc. Co. v. Hope Lumber Co.* (1912, C. C. A. 9th) 194 Fed. 643. Others hold that title in the case of all public waters is in the state. *Hammond v. Shepard* (1900) 186 Ill. 235, 57 N. E. 867. The constitutions of some states so provide. *City of New Whatcom v. Fairhaven Land Co.* (1901) 24 Wash. 493, 64 Pac. 735. Where the title to the bed of a navigable stream is in the state, the public is privileged to fish and hunt fowl and animals inhabiting the waters. *Ex parte Bailey* (1909) 155 Calif. 472, 101 Pac. 441; *Ainsworth v. Munoskong Hunting Club* (1908) 153 Mich. 185, 116 N. W. 992. But no one, whether riparian owner or not, has a right to the materials in the